II. Remarks

A. Status of the Claims

Claims 1-17 are currently pending. Claim 1 has been amended without prejudice to correct a typographical error. Claims 11 and 13 have been amended without prejudice to include the term "hardware". Applicants submit that no new matter has been added by virtue of this amendment.

B. Claim Objections

In the Office Action, claim 1 was objected to because of a typographical error. Specifically, the claim recited the term "true" instead of "tree".

In response, claim 1 has been amended to replace the term "true" with the term "tree". Accordingly, Applicants respectfully request that the objection to claim 1 be removed.

C. Claim Rejections under 35 U.S.C. § 112

In the Office Action, claims 1-17 were rejected under 35 U.S.C. § 112, first paragraph for allegedly failing to comply with the written description requirement. Specifically, the Examiner stated that she failed "to find support in the specification for the concept of the functions and the data being stored in one tree structure".

This rejection is respectfully traversed. Applicants submit that the application, as originally filed, provides support for the "data set structure comprising hierarchical organizational information for arranging data and functions into at least one tree structure, the tree structure being configured to store data and functions of arbitrary type", as presently claimed. The Examiner is directed to Appendix A, which states that "[t]he preceding discussions have introduced the concept of the DataSet as an hierarchical tree of Items". Specification at Appendix A, first line. Applicants further point out that the DataSet contains both data and functions. See, e.g., Specification at paragraphs [0026] and [0033]. Therefore, Applicants submit that the concept of data and functions, both of which are contained in the DataSet, being

stored in a tree structure, is supported by the present specification, e.g., at Appendix A and paragraphs [0026 and [0033].

Accordingly, Applicants request that the rejection under 35 U.S.C. § 112, first paragraph be removed.

D. Clarifications under 35 U.S.C. § 101

In the Office Action, the Examiner indicated that "claims 11-16 are directed towards an apparatus which includes a server. The server is being construed as a hardware server."

In response, Applicants have amended the claims to recite that the server is a "hardware server".

E. Claim Rejections under 35 U.S.C. § 103(a)

1. Elmore et al. in view of Russell et al.

In the Office Action, claims 1-3 and 9-16were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Publication No. 2006/0059107 to Elmore et al. in view of U.S. Publication No. 2004/0039964 to Russell et al.

This rejection is respectfully traversed. Applicants submit that the combination of Elmore et al. and Russell et al. fail to render obvious a method or apparatus for presenting data and functions to a user via a presentation layer, for use in a distributed processing system to effect an interface between a business layer and the presentation layer, as presently claimed. The Examiner is reminded that pursuant to MPEP, 8th Ed., 7th Rev. § 2142, to establish a prima facie case of obviousness, and thus sustain the rejection of a claim under 35 U.S.C. § 103(a), there must be a clear articulation of the reasons why Applicants' claimed invention would have been obvious. *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398 (2007). The Supreme Court in KSR has further noted that an analysis supporting a rejection under 35 U.S.C. § 103(a) should be made explicit. Therefore, it is clear that an obviousness rejection "cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 441 F.3d 977 (Fed. Cir. 2006). Moreover, "[t]o support the conclusion that the claimed invention is directed to

-8-

obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." MPEP, 8th Ed. 7th Rev. § 706.02(j).

In making the rejection, the Examiner cites to paragraphs [0051]-[0052]; [0094]; [0514]-[0516] and Figure 18 of Elmore et al. for allegedly disclosing "a data set structure comprising hierarchical organizational information for arranging data and functions [objects] into at least one tree structure [hierarchy], the tree structure being configured to store data and functions of arbitrary type." Office Action at page 4. However, Applicants submit that the Elmore et al. do not describe a tree structure being configured to store data and functions of an arbitrary type, as further discussed below.

The hierarchy described in Elmore et al. must be a three-layer structure containing only and specifically "three types of objects on the hierarchy: root, billing point, and assigned product", where the root of the hierarchy must be the top level. Elmore et al. at paragraph [0514] (Figure references omitted); and [0519]. Thus, the hierarchy of Elmore et al. cannot be configured to store data and functions of an arbitrary type, as alleged by the Examiner, because the data and functions must necessarily correspond tone of the enumerated objects, i.e., either the root, billing point or assigned product. Applicants submit that Elmore et al. neither expressly nor impliedly suggest the recited limitation of a tree structure being configured to store data and functions of an arbitrary type, and the Examiner has not provided any reasoning (other than citing Elmore et al. segments which describe only the root, billing point and assigned product hierarchy) as to why the skilled artisan would have found the claimed invention to be obvious, as required by § 706.02(j) of the MPEP.

Further, as admitted by the Examiner, Elmore et al. fail to describe "the further limitations of instantiating the business layer data set in said business layer as beans; serializing the beans in to XML; transporting the serialized beans to the presentation layer using [] SOAP; and deserializing the serialized beans in the presentation layer." Office Action at page 4. Russell et al. is relied upon by the Examiner solely because they purportedly describe these further limitations. However, Applicants submit that Russell et al. do not disclose a tree

structure being configured to store data and functions of an arbitrary type, and therefore Russell et al. fail to cure the deficiencies of Elmore et al.

Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. § 103(a) over Elmore et al. in view of Russell et al. be removed.

2. Elmore et al. in view of Russell et al. in further view of Newman et al.

In the Office Action, claims 4-8 and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Elmore et al. in view of Russell et al. and further in view of U.S. Publication No. 2004/0230559 to Newman et al.

This rejection is respectfully traversed. Applicants submit that the combination of Elmore et al., Russell et al. and Newman et al. fail to render obvious a method or apparatus for presenting data and functions to a user via a presentation layer, for use in a distributed processing system to effect an interface between a business layer and the presentation layer, as presently claimed.

For the reasons discussed *supra*, Applicants submit that Elmore et al. and Russell et al. do not disclose the recited limitation of a tree structure being configured to store data and functions of an arbitrary type.

Applicants further submit that Newman et al, is relied upon by the Examiner solely for purportedly disclosing "multi-layer architecture, including the further limitation where defining a plurality of data items comprises defining a domain for each of said plurality of data items, the domain corresponding to the data type of a data item", with respect to claims 4-8, and for purportedly disclosing a tree structure providing the same with respect to claim 17. See Office Action at pages 8 and 11, respectively. However, Applicants submit that Newman et al. do not disclose a tree structure being configured to store data and functions of an arbitrary type, and therefore Newman et al. fail to cure the deficiencies of Elmore et al. and Russell et al.

Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. § 103(a) over Elmore et al. in view of Russell et al. and further in view of Newman et al. be removed.

III. Conclusion

In view of the amendments made and arguments presented, it is believed that all claims are in condition for allowance. If the Examiner believes that issues may be resolved by a telephone interview, the Examiner is invited to telephone the undersigned at (973)597-6162. The undersigned also may be contacted via e-mail at epietrowski@lowenstein.com. All correspondence should be directed to our address listed below.

AUTHORIZATION

The Commissioner is hereby authorized to charge any fees that may be required, or credit any overpayment, to Deposit Account No. 50-1358.

Respectfully submitted,
Lowenstein Sandler PC

Date: March 5, 2009

s/Elizabeth Pietrowski/
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